

Exhibit 1d



U.S. Department of Justice
Federal Bureau of Prisons

Program Statement

OPI: HSD
NUMBER: 1640.03
DATE: July 1, 1994
SUBJECT: Smoking/No Smoking Areas

EFFECTIVE DATE: August 1, 1994

1. **[PURPOSE AND SCOPE \$551.160.** To advance towards becoming a clean air environment and to protect the health and safety of staff and inmates, the Bureau of Prisons will restrict areas and circumstances where smoking is permitted within its institutions and offices.]

In correctional institutions, smoking prohibitions (no smoking areas) shall apply equally to staff and inmates. In administrative buildings, the provisions of this Program Statement shall apply to staff in those areas under the Bureau's control.

The hazards of tobacco smoke are now well established by medical and public health authorities. The risks posed to nonsmokers by passive inhalation of environmental tobacco smoke (ETS) are of particular concern. The Surgeon General has concurred with scientific research which indicates that "involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers." On January 7, 1993, the Environmental Protection Agency (EPA) officially endorsed a report by an outside panel of scientific advisers to the agency, which stated "exposure to second-hand cigarette smoke causes lung cancer in adults and greatly increases the risk of respiratory illness in children."

Consistent with the implications raised by this report, and the advisories given by health authorities, the Bureau of Prisons has established a long-range goal of creating a smoke-free workplace and clean air environment. To achieve this objective, the Bureau has established the Office of Health Promotion and Disease Prevention to help individuals develop a healthier lifestyle, including smoking cessation.

[Bracketed Bold - Rules]

Regular Type - Implementing Information

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2. DIRECTIVES AFFECTED

a. Directive Rescinded

P.S. 1640.02 Smoking/No Smoking Areas (11/16/89)

b. Directives Referenced

P.S. 5270.07 Inmate Discipline and Special Housing Units
(12/29/87)

P.S. 1232.03 Personal Computers (06/15/90)

Comptroller General Decision B-231453, Smoking Cessation
Program for Federal Employees (02/03/89)

Office of Personnel Management FPM Letter 792-20,
Clarification of FPM Chapter 792, Federal Employees Health
and Counseling Programs (05/17/89)

c. Rules cited in the Program Statement are contained in 28
CFR 551.160-164.

3. STANDARDS REFERENCED

a. American Correctional Association 3rd Edition Standards for
Adult Correctional Institutions: 3-4363.

b. American Correctional Association 3rd Edition Standards for
Adult Local Detention Facilities: 3-ALDF-4E-33.

c. Joint Commission on Accreditation of Healthcare
Organizations, 1993 Accreditation Manual For Hospitals, Volume I:
MA.1.3.14, MA.1.3.14.1.

4. **[DEFINITIONS §551.161. For purpose of this subpart, smoking
is defined as carrying or inhaling a lighted cigar, cigarette,
pipe or other lighted tobacco products.]**

a. Warden ordinarily refers to Chief Executive Officers,
including Camp Superintendents, Staff Training Center Directors,
Regional Directors, and the Director or Assistant Directors
(including General Counsel) in the Central Office.

b. Administrative areas include Central Office, regional
offices, Management/Training Centers, UNICOR Product Support
Centers, UNICOR Regional Marketing Centers, Community Corrections
Management and Management Center Administrators offices, and
temporary office quarters for all new institutions.

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c. Hall and corridor are defined as areas which join two separate sections or rooms.

d. Kitchen and food preparation areas are defined as all areas within the institution's Food Service Department, including food storage areas and pantry areas for satellite food delivery, such as those found in special housing units.

e. Medical and dental delivery areas are defined as all areas within the institution's Health Services Department, including waiting areas and satellite treatment rooms, such as those found in satellite camps, UNICOR, and special housing units, where medical and dental treatment and care occur.

5. [DESIGNATED NO SMOKING AREAS §551.162. All areas of Bureau of Prisons facilities and vehicles are no smoking areas unless specifically designated as a smoking area by the Warden as set forth in §551.163.]

Section §551.163 is contained in Section 6 of this Program Statement.

6. [DESIGNATED SMOKING AREAS §551.163.] Ordinarily, an outdoor area, away from combustible materials, shall be designated as a smoking area.

[a. At all medical referral centers, including housing units, and at minimum security institutions, including satellite camps and intensive confinement centers, the Warden shall identify "smoking areas," ordinarily outside of all buildings and away from all entrances so as not to expose others to second-hand smoke.]

In rare and extenuating circumstances, in accordance with Joint Commission on Accreditation of Healthcare Organizations (JCAHO) guidelines, Wardens at medical referral centers may allow terminally ill and psychiatric patients to smoke indoors. Authorization shall be granted only after a physician's order has been written. The designated smoking area shall be located away from other patients in a well ventilated space, so others are not exposed to second-hand smoke.

[b. At all low, medium, high, and administrative institutions other than medical referral centers, the Warden shall identify outdoor smoking areas and may, but is not required to, designate a limited number of indoor smoking areas where the needs of effective operations so require, especially for those who may be employed in, or restricted to, a nonsmoking area for an extended period of time.]

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Indoor smoking areas shall be well ventilated to the outdoors. Smoking shall not be permitted in the following areas:

- Elevators
- Storage rooms and warehouses
- Libraries
- Dining facilities
- Kitchen and food preparation areas
- Medical/dental care delivery areas
- Institution/Government vehicles
- Administrative areas and offices
- Auditoriums
- Classrooms and conference rooms
- Gymnasiums and exercise rooms
- Restrooms

Areas containing computer assets, in accordance with the requirements of the Program Statement on Personal Computers.

Smoking shall also not be permitted in halls or corridors, unless the Warden determines it is absolutely necessary to maintain the effective operations of the institution.

In selected areas meeting the requirements of Section 6.b., where staff are confined for extended periods, the Warden may, but is not required to, establish smoking areas depending upon the preference of the personnel involved. Ordinarily, nonsmoking employees' preference shall be the determining factor. Nonsmoking staff shall not normally be assigned, over their objection, to an indoor workspace where smoking is permitted. Normal office and administrative areas, whether occupied by individual or multiple smokers or nonsmokers, shall be nonsmoking.

Prior to designating a smoking area, the Warden shall review the physical layout and function of the institution, with particular attention to:

Hazardous environmental factors. Special caution must be used in any area which has, or may contain, significant quantities of readily combustible or explosive liquids, gases, vapors, or solid waste.

Ventilation and human density during use of the area. Smoking is not permitted in congested areas with poor ventilation or where ventilation systems may carry smoke to nonsmoking areas.

Housekeeping, sanitation, and protection of property. In areas where smoking is permitted, sufficient ashtrays and other provisions for the safe and sanitary disposal of hot ashes must

be considered.

Types of physical barriers separating adjacent areas. In general, areas with incomplete physical separation (e.g., with low modular office walls) shall be considered as one area.

Activities undertaken in the area. Smoking is not permitted in areas used for medical or dental treatment, physical exercise, or food preparation, service, and storage.

Ability of occupants to remove themselves voluntarily from the immediate environment. Special consideration must be given to areas where smoking staff and inmates may be confined for extended periods.

[c. To the maximum extent practicable nonsmoking inmates shall be housed in nonsmoking living quarters.]

In low, medium, high, and administrative institutions (other than medical referral centers) with common living areas for large numbers of inmates (e.g., jails, dormitories), living facilities, to the extent practicable, shall be separated into smoking and nonsmoking areas sufficient to accommodate all nonsmokers. When feasible, separate dormitories shall be provided for nonsmoking inmates desiring such housing.

d. At all administrative buildings (defined in Section 4), smoking areas for staff shall be established outside of all buildings and away from all entrances, so as not to expose others to second-hand smoke.

7. **NOTICE OF SMOKING AREAS §551.164.** The Warden shall ensure that smoking areas are clearly identified by the appropriate placement of signs. The absence of a sign shall be interpreted as indicating a no smoking area. Appropriate disciplinary action shall be taken for failure to observe smoking restrictions.]

8. **SMOKING CESSATION PROGRAMS.** Each institution is encouraged to offer smoking cessation programs to both staff and inmates. Institutions, using existing resources, may pay for the costs of a smoking cessation program.

9. **INSTITUTION SUPPLEMENT REQUIRED.** Each institution shall develop an Institution Supplement containing information on its smoking restrictions and identifying smoking areas within the institution. A copy of the Institution Supplement shall be forwarded to the Regional Health Systems Administrator.

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10. EXISTING LABOR-MANAGEMENT AGREEMENTS. Existing labor-management agreements regarding the implementation of a smoke-free environment shall be honored except to the extent that such agreements would permit indoor smoking in derogation of this Program Statement for more than one year beyond the effective date of this directive.

11. EFFECTIVE DATE. The provisions of this Program Statement become effective August 1, 1994. Where special implementation problems exist, the Medical Director, upon written request from a Warden through the appropriate Regional Director, may allow an extension of up to six months for compliance.

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Kathleen M. Hawk
Director

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